

**RUMSON ZONING BOARD OF ADJUSTMENT
SEPTEMBER 17, 2013
MINUTES**

Chairman Conklin called the regular meeting to order at 7:30 p.m. with the Pledge of Allegiance. The Roll was called with the following members present: Conklin, Atwell, Wood, Thompson, Blum, Seaman, Duddy, Wood. Also present: Bernard Reilly (Board Attorney), Fred Andre (Zoning Officer), State Shorthand.

The requirements of the Open Public Meetings Act were stated as met.

Mr. Andre was sworn in at this time.

Siobhan & Peter Hogan, 27 Forrest Ave

This application will be rescheduled to the next meeting.

Resolutions

1. **Ira & Lynette Zohn 81 Navesink Ave.** - Revised plans for this application were submitted and reviewed. The Board determined that the numbers were now correct. A resolution has been prepared by Mr. Reilly reflecting the corrected plan. Mrs. Atwell moved to adopt the resolution and Dr. Wood seconded.
` Roll Call Vote: Ayes (Eligible) – Conklin, Blum, Wood, Atwell, Thompson, Duddy
Nays – None
Motion carried.
2. **Michael & Perry Parkes, 34 Blackpoint Horseshoe** – Approval to add second floor addition, front dormer, rear addition and dormer, and reconfigure driveway. Mrs. Atwell moved to adopt the resolution, and Dr. Wood seconded.
` Roll Call Vote: Ayes (Eligible) – Conklin, Blum, Wood, Atwell, Thompson, Duddy
Nays – None
Motion carried.
3. **Yellow Brook Property Co., LLC, 73 Rumson Road** – Approval to raze existing dwelling and construct new residence. Mrs. Atwell moved to adopt the resolution, and Dr. Wood seconded.
Roll Call Vote: Ayes (Eligible) – Conklin, Atwell, Duddy, Wood
Nays – None
Motion carried.

Michael & Alice Fabiano, 15 Osprey Lane

Mark Aikens, attorney, appeared on behalf of the applicants. He noted a unique set of circumstances with this application. The lot has 1.5 acres that are not included in the buildable area, due to environmentally sensitive areas. The house dates to the 1880's and has had some modifications over the years. The house suffered a hit from Sandy. Their architect and planner

are present for testimony this evening. They are aware that they need five out of seven affirmative votes for approval.

Mr. & Mrs. Fabiano, their architect, Mr. Daley, and their planner, Jason Fichter, were sworn in at this time. The Board accepted the qualifications of the expert witnesses. Mr. Daley located the house on the site plan provided (A-1), noting that the additions will be in the rear, facing the water. Sheet A-3 shows a 150 sq. ft. mud room in the corner near the garage. A small addition of 50 sq. ft. fills in between the breakfast area and another existing room. There is also a proposed deck addition in the rear. The house has been raised, and they are permitted to add stairs and a landing as a part of this construction. There is a small sitting room addition on the second floor, approximately 150 sq. ft. in size, that does not add to the footprint. The outside elevation was also shown, with Mr. Daley explaining that they are attempting to keep the character of the dwelling. The rear addition elevation was also shown. He explained that the house had been moved across the river from Monmouth Beach. Mr. Aikens stated that the house has had several additions over the years, and they are attempting to bring everything together with their plan. The purpose of the mud room is to make the home more functional and provide an entrance from the garage.

Mr. Blum asked Mr. Daley to further explain the calculations for the additions, and Mr. Daley confirmed his numbers on the drawings, restating the dimensions of the additions:

- 10' x 15' mud room;
- 30 sq. ft. for the fill-in area;
- Additional octagon area on the second floor.

Jason Fichter marked the aerial map A-2 and located the property on the map. He noted it is a waterfront property with substantial wetlands. He does not think these additions will adversely impact any of the neighbors. He noted that of the 2.2 acres on this property, only .66 are available for building (70% of the lot is unusable). They are asking for a modest addition to the home, and they will require an FAR variance (.056 permitted / .063 existing / .067 proposed – a modest increase). He thinks it meets all positive and negative criteria. It is an extreme circumstance. The property is not overdeveloped, and the size of the house fits the community. The increase in footprint is minimal. The site can accommodate the increase, in his opinion, which is an oversized lot with extensive wetlands constraints. It is a beautiful house that fits in with the character of the neighborhood.

Mr. Fichter explained the existing variances:

- Corner Lot circle requirement (115 sq. ft. required / 110 sq. ft. existing);
- Secondary front yard setback from Osprey Lane (65' required / 46.9' existing)
- Rear yard setback (50' required / 45.04 existing).

There are no changes proposed for these existing nonconformities.

The new variances include:

- Maximum building coverage (3,257 sq. ft. permitted / 3,376 sq. ft. existing / 3,543 sq. ft. proposed);

- Maximum Floor Area (5,374 sq. ft. permitted / 5,998 sq. ft. existing / 6,378 sq. ft. proposed).

These numbers rely heavily on the usable lot area. The additional footprint areas will not crowd the existing yard. It is not expanding or extending beyond the existing building lines.

The application enhances the property values and is an appropriate use of the land. The new construction will meet current codes, and the home is raised to meet the requirements of the flood maps. It provides adequate light, air, and space and promotes a desirable visual environment. There is no impact on the Storm Water Management, and any run off goes over land to a water body. It is his opinion that the application will not cause a substantial detriment to the public good.

James Anderson, 120 E. River Rd., was sworn in and stated that the house is rich in detail, and this will help with its historical nature.

Charles Puth, adjacent property owner, was sworn in and expressed no objection to the plan and does not think it will have any negative impact.

Mindy Stewart, 18 Osprey Lane, was sworn in and said she lives across the road and is familiar with the home. She is grateful that the Fabiano's want to stay in the house and improve it. She supports the application.

Steve Mahedy, Avenue of Two Rivers South, was sworn in and said they are a neighbor to the property, and they have no objection to the application. He thinks the intent of the ordinance is not to overbuild on the lot, and given the wetlands areas on this property, he does not think this will occur. They are in favor of the application.

Mr. Thompson asked about the hardship, and Mr. Aikens said it relates to the fact that this is an historic home that has been added on to over the years, and this addition will provide a modern amenity to this 130 year old structure. It is a modest plan, relative to the FAR and footprint.

Chairman Conklin noted that the house has been before the Board several times. He agrees that the additions might be minimal, but the board needs to consider the ordinance that is based on the usable lot size. He is in favor of the application, but the Board needs to consider the ordinance in this case.

Mrs. Seaman said that the only reason she would vote in favor of this application is because there is so much unusable land.

Mr. Duddy agrees that there is a significant hardship because a sizeable portion of the lot is unbuildable, and in this neighborhood, this is an average-sized house and not overbuilt.

Mr. Blum thinks they need to look at these applications very carefully, but in this case, the argument is unique, and this is an extreme example of the application of usable lot areas concept. This is an historic house that is being elevated, and the minor addition proposed meets the

criteria for “D” variances, in his opinion. He would move to approve the application with the recommendation that revised plans be filed with the current zoning schedule. Mr. Brodsky seconded.

Roll Call Vote: Ayes – Conklin, Thompson, Atwell, Seaman, Blum, Duddy, Wood, Brodsky
Nays – None

Motion carried.

Brian & Sarah Chin, 46 Bellevue Ave.

Mark Aikens, attorney, appeared on behalf of the applicants. He reviewed the application to raze the existing residence. Mr. Chin is present for testimony, along with his architect, James Anderson, and landscape architect, Stephen Krog. All were sworn in at this time, and the Board accepted the qualifications of the experts.

Mr. Aikens described the proposed home, pool, cabana, and sports court. The existing structure on the property will be demolished. The lot is very deep, and the house is designed to respond to this depth. The house will also respond to the topography of the lot. He described the proposed design for the house shown on the elevation provided. The style is a fusion of shingle and colonial revival styles. They are also proposing a pool house, which will be set off to the side, also shown on the drawing provided. There are two existing nonconformities that cannot change:

- Lot width (200’ required / 192’ existing)
- Interior lot shape (115’ required / 112’ existing).

There are no lights proposed for the sports court. The pool house will have a bathroom and washing machine for towels. The proposal will fully comply with the ordinance, and no new nonconformities will be created.

There were no questions or comments from the public.

Chairman Conklin questioned the numbers for lot coverage, as shown on Mr. Krog’s and Mr. Anderson’s plans, which do not agree with Mr. Andre’s numbers for building coverage, etc. Mr. Andre said his numbers were based on a plan from 8/22/13 and the revised plans were dated 9/4/13, which is the most current plan. Mr. Andre said the numbers changed involve the building and terrace numbers. They are still below the maximum allowed. The applicant said they will submit a revised plan to show the correct numbers.

Mrs. Seaman asked if there were any trees to be removed, and Mr. Krog showed the Board the existing trees and the proposed new trees to screen the garage area. The site contains significant trees in the front and rear that they will retain, except for the trees in the immediate vicinity of the proposed house. The swimming pool does not require any tree removal. Mr. Krog pointed out two trees on the north area to be removed in the driveway area – both of which are mostly dead and do not meet the standards for a specimen tree, according to the borough ordinance. Some regrading will be required in the middle of the property to create a usable lawn area. The soil along the sides will not be disturbed.

Mr. Blum suggested they study the driveway area for site distances due to a hill in the area. He thinks it may be better to keep the driveway where it is now.

Mr. Thompson moved to approve the application, and Mrs. Seaman seconded.

Roll Call Vote: Ayes – Conklin, Thompson, Atwell, Seaman, Blum, Duddy, Wood, Brodsky

Nays – None

Motion carried.

Michael & Hallie Thompson, 6 Nicol Terrace

Mr. Thompson, contract purchaser, and James Camoosa, property owner, were sworn in at this time. Mr. Camoosa described their plan to add a pool to the property, which has already received approval for construction of a new house. The grade will not be changed, and a grading plan has been submitted. The only reason they are here is because the home is on a private road. No new nonconformities will be created with this plan. The pool will be behind the house and not visible from the road. The house is being constructed. No pool house is proposed. No trees will be removed, and they will be adding additional landscaping.

There were no questions or comments from the public. Mr. Andre said there have been no complaints heard in the Zoning Office regarding this construction.

Mr. Brodsky moved to approve the application, and Mr. Thompson seconded.

Roll Call Vote: Ayes – Conklin, Thompson, Atwell, Seaman, Blum, Duddy, Wood, Brodsky

Nays – None

Motion carried.

Michael Cantor, 31 A-33 Ward Avenue

Michael Bruno, attorney, appeared on behalf of the applicant, who would like to put two new garages on the property. They are proposed for the front yard, 450' from Ward Ave., and they need a variance to do this. Also, they need a variance because they are proposing space for seven vehicles. The house currently has a two-car garage, and they would like to add two buildings.

Michael Monroe, architect, was sworn in, and the Board accepted his qualifications. He distributed a photo, showing the existing conditions of the house, along with a rendering of the proposed structures. Also, a Google Earth picture shows the conditions of the property, including the large paved area in the front of the house. These are also shown on their site plan (A-1 and A-2).

They are proposing two garage structures – a two-car garage to the south, and a three-car garage to the north. Each of the buildings will face the driveway court and not face the street. There is a two-car garage on the property, adjacent to the house. Their intent is to create two structures for storage and vehicles. Mr. Cantor has water vehicles that will be stored in these spaces. They have an extra wide lot in the front, creating a penalty in the building setback requirements. This is a pre-existing condition. The two proposed new garage areas will be fully conforming, except for the location in the front yard. In these properties on the water, most of these types of structures are located in the considered front yard. The two proposed garages would be built on

the existing paved area and will allow them to put their cars away and out of the view of the neighbors. The lot coverage and building coverage are conforming with their plan. The second floor of the garages will not be finished, and there is no proposed access to these areas. They would agree to a condition that the second floor only be used for storage.

Judith Rivkin, was sworn in and asked if there is any water proposed for these structures, and Mr. Monroe said there are no bathrooms proposed. They may provide a cold water hose access for washing cars, etc.

David Rivkin, 35 Ward Ave., was sworn in and said he has no objection, as long as there is screening between the two properties.

Mr. Blum asked what utilities would be in the garage, and Mr. Monroe said there would be electric, but no heat. He was asked about the north side of the house, between the back of the garage and the present driveway and parking area, and Mr. Monroe called attention to the satellite picture, which shows a landscaped and paved area. The hedge is on the applicant's property, and the pine trees are on the adjacent property. Mr. Monroe said they would be willing to supplement the hedge and maintain screening between the two properties, and Mr. Blum said this would be satisfactory to him.

Chairman Conklin thinks it is important to provide a hedge between the two properties. Mr. Bruno said they would be willing to maintain a hedge in this area.

Mr. Blum asked about the sidewalk on the south side of the house out to the parking area, and whether this would be maintained. Mr. Monroe said this sidewalk will remain and extend to the front of the garage.

Mr. Thompson asked about water run off, and Mr. Monroe said there should be no change to the surface runoff. All runoff drains into a dry well at present, and this will remain.

Mr. Thompson moved to approve the application with the condition that the screening along the north side be maintained and no living space occur on the second floor of the garages, which will be used for storage only, and no heat and no bathrooms will be included in the structures. Mrs. Seaman seconded.

Roll Call Vote: Ayes – Conklin, Thompson, Atwell, Seaman, Blum, Duddy, Wood, Brodsky
Nays – None

Motion carried.

Approval of Minutes

Motion was made and seconded to approve the July and August minutes, with corrections.
Voice Vote: Ayes, unanimous.

There being no further business, motion was made and seconded to adjourn. Voice Vote: Ayes, unanimous. The meeting was adjourned at 9:20 p.m. The next meeting will be **October 15, 2013.**

Respectfully Submitted,

Patricia Murphy
Clerk